

**Baker & Hostetler LLP**  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan

*Attorneys for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities LLC  
and the estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 11-02910 (SMB)

Plaintiff,

v.

MERRILL LYNCH BANK (SUISSE) S.A.,

Defendant.

**NOTICE OF APPEAL**

**PLEASE TAKE NOTICE** that Irving H. Picard (the “Trustee”), as trustee of the  
substantively consolidated estate of Bernard L. Madoff Investment Securities LLC under the

Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, individually, hereby appeals to the United States Court of Appeals for the Second Circuit pursuant to 28 U.S.C. § 158(d)(2), from each and every aspect of the final judgment annexed hereto as Exhibit 1 (the “Final Judgment”) of the Honorable Stuart M. Bernstein of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), entered in the above-captioned adversary proceeding (the “Adversary Proceeding”), *Picard v. Merrill Lynch Bank (Suisse) S.A.*, Adv. Pro. No. 11-02910 (SMB) (Bankr. S.D.N.Y. March 6, 2017), ECF No. 93, and in the main adversary proceeding, *Securities Investor Protection Corp. v. Bernard L. Madoff Investment Securities LLC (In re BLMIS)*, Adv. Pro. No. 08-01789 (SMB) (Bankr. S.D.N.Y. Mar. 6, 2017), ECF No. 15145, including without limitation the following:

1. Memorandum Decision Regarding Claims to Recover Foreign Subsequent Transfers of the Bankruptcy Court (Bernstein, J.), dated November 22, 2016 (attached as Exhibit A to the Final Judgment), resulting in the dismissal of all of the Trustee’s claims against the defendant in this Adversary Proceeding. *Id.*, ECF No. 14495;
2. Opinion and Order of the United States District Court for the Southern District of New York (Rakoff, J.), dated July 6, 2014 (annexed hereto as Exhibit 2). *Securities Investor Protection Corp. v. Bernard L. Madoff Investment Securities LLC (In re Madoff Sec.)*, No. 12-mc-115 (JSR) (S.D.N.Y. July 7, 2014), ECF No. 551;
3. The Order of the United States District Court for the Southern District of New York (Rakoff, J.) dated May 11, 2013, where applicable (annexed hereto as Exhibit 3). *Id.*, ECF No. 468; and

4. The Order of the United States District Court for the Southern District of New York (Rakoff, J.), dated June 6, 2012, where applicable (annexed hereto as Exhibit 4). *Id.*, ECF No. 167.

The names of the relevant parties to the Final Judgment appealed, and the contact information of their attorneys, are as follows:

Trustee/Appellant	Counsel for Trustee/Appellant
Irving H. Picard, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and the Estate of Bernard L. Madoff	BAKER & HOSTETLER LLP 45 Rockefeller Plaza New York, New York 10111 Telephone: (212) 589-4200 Facsimile: (212) 589-4201 David J. Sheehan Email: dsheehan@bakerlaw.com

Defendant/Appellee	Counsel for Defendant/Appellee
Merrill Lynch Bank (Suisse) S.A.	O'MELVENEY & MYERS LLP Seven Times Square New York, New York 10036 Telephone: (212) 326-2000 Facsimile: (212) 326-2061 Pamela A. Miller Email: pmiller@omm.com

**PLEASE TAKE FURTHER NOTICE** that the Trustee and the defendant in this Adversary Proceeding have agreed pursuant to 28 U.S.C. § 158(d)(2)(A)(iii) to certify this appeal to the United States Court of Appeals for the Second Circuit. Accordingly, subsequent to the filing of this Notice of Appeal, the parties will also file an Official Bankruptcy Form 424 certifying this appeal.

**PLEASE TAKE FURTHER NOTICE** that if the United States Court of Appeals for the Second Circuit does not authorize a direct appeal, the Trustee hereby appeals the Final

Judgment, in the alternative, to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 158(a)(1).

Dated: March 16, 2017  
New York, New York

By: /s/ Catherine E. Woltering  
**BAKER & HOSTETLER LLP**  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Catherine E. Woltering  
Email: cwoltering@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee  
for the Substantively Consolidated SIPA  
Liquidation of Bernard L. Madoff Investment  
Securities LLC and the Estate of Bernard L.  
Madoff*